

MAR. 3. 2008 7:24PM

SONNENSCHNEIN

NO. 3275 P. 13

S 03p 1252-0500

**In the United States Patent and Trademark Office**

APPLICANT(S): Tsuyoshi Ohyama, et al. ATTORNEY DOCKET NO.: 09792909-5730

SERIAL NO.: 10/714,133

GROUP ART UNIT: 2871

DATE FILED: November 14, 2003

EXAMINER:

A. Schechter

INVENTION: "METHOD OF MANUFACTURING A LIQUID CRYSTAL DISPLAY  
HAVING A PATTERNED RETARDATION FILM  
(As Amended)"

**Affidavit Under 37 CFR 1.131 (Revised)**

SIR:

We, Tsuyoshi Ohyama, Masato Imai, and Kazuyuki Endo (herein after 'We' or 'Affiant')  
hereby declare as follows:

1. We are the named inventors of the subject matter that is claimed and for which a  
patent is sought on the invention as identified above.

2. In the Office Action having a mailing date of 13 March 2007, the Examiner presented  
U.S. Patent No. 6,731,360 by *Roosendaal, et al.* ("*Roosendaal*") as grounds for obviousness to  
reject certain claims.

3. This written document is an affidavit of prior invention to overcome the cited patent.  
As the only inventors of the subject matter of the rejected claims, we hereby submit this oath to  
overcome *Roosendaal*.

**I. Showing of Facts Through Document Evidence**

4. We understand that *Roosendaal* has a U.S. filing date of 26 August 2002.

5. Below are facts that show our conception of the invention on or before  
26 February 2002, which pre-dates *Roosendaal*'s U.S. filing date of 26 August 2002, coupled  
with diligence from 26 August 2002 to a subsequent constructive reduction to practice via filing  
of the present application.

**A. Facts establishing conception**

6. We present the following facts to establish a conception of the invention on or before  
26 February 2002, which pre-dates *Roosendaal*'s U.S. filing date of 26 August 2002.

**1. Conception**

7. We allege the present application for a U.S. patent claims the same invention  
disclosed in Japanese Application No. 2002-049163 ("JP '163 application") filed on 26 February  
2002.



MAR. 3. 2008 7:24PM

SONNENSCHNEIN

NO. 3275 P. 14

8. We understand the present application claims priority to Japanese Application No. 2002-333364 ("JP '364 application"), which was filed in Japan on 18 November 2002. The JP '364 application is a continuation application of the JP '163 application, which was filed in Japan on 26 February 2002. We understand the JP '163 was pending at the time of filing the JP '364 application.

9. The JP '364 application and the JP '163 application share a similar specification.

10. The basic inventive concept of the present application is the method for manufacturing a liquid crystal display as recited in the claims by forming a retardation film on an alignment film and patterning the retardation film to have a phase difference that differs between a reflective area and a transmissive area.

11. The JP '163 application discloses this claimed subject matter. Specifically, the JP '163 application discloses a method for manufacturing a liquid crystal display which has a pair of substrates and a liquid crystal layer interposed between the substrates and which has a reflective area and a transmissive area. (See, e.g., *Certified Translation of JP '163* [0020]; Figure 7). A retardation film is patterned such that the retardation film remains at least in the reflective area and the phase difference of the retardation film differs between the reflective area and the transmissive area. (See, e.g., *Certified Translation of JP '163* [0021] and [0044]; Figure 7). An alignment film is formed on at least one of the substrates and the retardation film is formed on the alignment film. (See, e.g., *Certified Translation of JP '163* [0045]; Figure 7). Therefore, we conceived the claimed subject matter at least as early 26 February 2002, the filing date of the JP '163 application.

12. We understand that a certified translation of the JP '163 application has been submitted in the present application.

## 2. U.S. filing date of *Roosendaal*

13. We understand that, as indicated on the face of the *Roosendaal* patent, the date on which *Roosendaal* was available as prior art under 35 U.S.C. 102(a) or (e) was 26 August 2002, namely, the U.S. filing date. Accordingly, the date to overcome is 26 August 2002.

## 3. On or before the U.S. filing date of *Roosendaal*

14. We allege acts relied on to establish a conception date on or before 26 August 2002. Namely, the JP '163 application was filed on 26 February 2002, prior to *Roosendaal*'s U.S. filing date of 26 August 2002.

## B. Facts establishing reduction to practice

15. We present the following facts to establish a reduction to practice.

16. We filed the JP '163 application in Japan on 26 February 2002.

17. Around nine months later, we filed the JP '364 application in Japan on 18 November 2002. The JP '364 application is a continuation application of the JP '163 application. The JP '163 application was pending at the time of filing the JP '364 application.

MAR. 3. 2008 7:25PM

SONNENSCHNEIN

NO. 3275 P. 15

18. The JP '364 application and the JP '163 application share a similar specification.

19. The present application was filed in the U.S. on 14 November 2003, less than one year after the filing date of the JP '364 application. The present application claims priority to the JP '364 application.

20. Therefore, constructive reduction to practice was achieved.

**C. Facts establishing reasonable diligence**

21. We present the following facts to establish that there was reasonable diligence from on or before 26 August 2002 and the constructive reduction to practice.

22. As noted above, conception occurred on or before 26 February 2002 when we filed the JP '163 application in Japan. After filing the JP '163 application, we actively prosecuted the JP '163 application in Japan. Around nine months later, on 18 November 2002, we filed the JP '364 application in Japan. We understand the JP '364 application is a continuation application of the JP '163 application. After filing the JP '364 application we actively and diligently prosecuted both the JP '163 application and the JP '364 application in Japan.

23. We understand the present application claims priority to the JP '364 application. The present application was filed in the U.S. on 14 November 2002, less than one year after the filing date of the JP '364 application. From the time of filing the JP '364 application in Japan and the time of filing the present application in the U.S., we diligently and actively prosecuted the JP '364 application in Japan.

24. We assert there was reasonable diligence from conception to reduction to practice.

25. We understand the time period taken for completion of the application for foreign filing constitutes reasonable diligence. During this time period, we and our representatives worked reasonably hard and expeditiously to prepare, execute, and file an application in Japan. Accordingly, there was reasonable diligence from on or before the 26 August 2002, when the JP '163 application was pending and actively prosecuted, to the 14 November 2002 filing of the JP '364 parent application of the present invention in Japan.

**II. Allegations and other statements**

26. We allege that the acts relied upon to establish an invention date on or before *Roosendaal* were carried out in Japan.

MAR. 3. 2008 7:25PM

SONNENSCHNEIN

NO. 3275 P. 16

**III. Signatures and Declaration in Lieu of Oath Under 37 CFR 1.68**

27. We hereby declare that the statements made of our own knowledge are true and that all statements made on information and belief are believed to be true. We acknowledge that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon.

Tsuyoshi Ohyama

Tsuyoshi OhyamaDate: March 4, 2008

Masato Imai

Date: \_\_\_\_\_

Kazuyuki Endo

Kazuyuki EndoDate: March 4, 2008

**III. Signatures and Declaration in Lieu of Oath Under 37 CFR 1.68**

27 We hereby declare that the statements made of our own knowledge are true and that all statements made on information and belief are believed to be true. We acknowledge that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon.

Isuyoshi Ohyama

\_\_\_\_\_

Date: \_\_\_\_\_

Masato Imai

Masato Imai

Date: March 4, 2008

Kazuyuki Endo

\_\_\_\_\_

Date: \_\_\_\_\_